

STATEMENT OF PURPOSE

RS19492

In past sessions, the provisions of Section 15-2-616, commonly known as the "Caregiver" statute have been expanded to cover evolving problems created when a caregiver, whether providing services at a person's home or providing institutional care, was named as a taker under the estate plan of the person within a year prior to the death of the person. However, a number of problems with the statute have arisen that this legislation cures. First, many financial abuse situations involve a life time gift of some sort rather than a bequest or devise through the estate plan at the death of the person. Therefore, this bill amends the caregiver statute to include gifts. Second, a number of terms in the statute were not clearly defined (for example, "relative", "time period"), clear that it is not intended to apply to care by close family members. Third, the exemptions to the statute were not clearly defined, so this bill clarifies the "relative" and charitable entity exemptions to the presumption of undue influence.

This bill will make the statute more effective and much easier to enforce. It will also allow abuse situations to be corrected, while not penalizing care by immediate family which is rewarded by a gift or bequest from the person cared for. Other avenues of relief are available if immediate family members unfairly take advantage of a relative.

FISCAL NOTE

This bill will have no negative fiscal impact. It should have a positive fiscal effect by reducing the number of persons forced onto public welfare and/or Medicaid or other programs because of loss of assets and income through improper transfers.

Contact:

Name: Robert Aldridge

Office: Trust & Estate Professionals of Idaho, Inc.

Phone: (208) 336-9880